

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LISA SMITH,)
Plaintiff,) CASE NO. C16-1818 RSM
v.)
MEGAN DOHTRY, *et al.*,) SECOND ORDER DENYING MOTION
Defendants.) TO APPOINT COUNSEL
)
)

This matter comes before the Court on Plaintiff's Second Motion to Appoint Counsel. Dkt. #25. In a prior motion to appoint counsel, Plaintiff stated that she contacted one attorney in April 2016 and one attorney in July 2016. Dkt. #8. Plaintiff has been granted leave to proceed *in forma pauperis* in this matter. Dkt. #6. The Complaint was filed on November 30, 2016. Defendants appeared on April 17, 2017. Dkt. #19.

In civil cases, the appointment of counsel to a *pro se* litigant “is a privilege and not a right.” *United States ex. Rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation omitted). “Appointment of counsel should be allowed only in exceptional cases.” *Id.* (citing *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963)). A court must consider together “both the likelihood of success on the merits and the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). Even where the claim is not frivolous, counsel is often unwarranted where the

ORDER

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1 litigant's chances of success are extremely slim. *See Mars v. Hanberry*, 752 F.2d 254, 256 (6th
2 Cir. 1985).

3 At this early stage of the litigation, the Court cannot find that Plaintiff is entitled to
4 appointment of counsel. It does not yet appear that any exceptional circumstances exist, and
5 there is no record before the Court that would allow the Court to adequately examine whether
6 Plaintiff's claims appear to have merit. Moreover, Plaintiff has filed a Motion to Amend her
7 Complaint, which remains pending at this time. Dkt. #27.

8 Accordingly, the Court hereby finds and ORDERS that Plaintiff's Motion to Appoint
9 Counsel (Dkt. #25) is DENIED without prejudice. This Order does not preclude Plaintiff from
10 re-filing this Motion once a factual record pertaining to her claims has been more fully developed.
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12 DATED this 16th day of June 2017.

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16 RICARDO S. MARTINEZ
17 CHIEF UNITED STATES DISTRICT JUDGE
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